



U.S. Department of Justice
United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

August 11, 2008

MEMO ENDORSED

P.Z

Honorable Richard M. Berman
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square, Room 706
New York, New York 10007

Re: United States v. Craig Gross
07 Civ. 11298 (RMB)

Dear Judge Berman:

The Government respectfully writes in response to petitioner Craig Gross's submission filed on August 7, 2008 entitled "Appeal To The District Court Of The Magistrate Judges Denial of Request For Fed.R.Civ.P. 15 Motion" ("Appeal").

The Appeal represents the petitioner's third request for an extension. By way of background, on December 17, 2008, the defendant moved this Court to Vacate, Set Aside, or Correct his sentence pursuant to Title 28, United States Code, Section 2255. The case was referred to Magistrate Judge James C. Francis. On April 22, 2008, Judge Francis granted petitioner leave to amend his §2255 petition no later than May 9, 2008. Thereafter, Gross filed a petition to hold his §2255 Motion in abeyance in which he requested, among other things, an additional sixty-day extension of time to amend his §2255 petition. The Government did not object and on June 27, 2008, Judge Francis extended Gross's time to amend his petition to July 31, 2008 and denied Gross's application in all other respects.

While the Government believes Gross's claims are all time-barred, we do not object to Your Honor granting the Petitioner an additional 60-day extension of time until September 29, 2008 to amend his §2255 petition. The Government

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respectfully requests that this third extension be deemed final and that the Court direct that no further extensions will be granted.

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

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cc: Craig Gross (by U.S. Mail)

Mr. Gross's request for an extension of time to file an amended petition [#7] is granted (without prejudice to either side's position) until 9-29-08 on consent of Government.

SO ORDERED:
Date: 8-11-08

Richard M. Berman
Richard M. Berman, U.S.D.J.